IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

WP(C).No. 34513 of 2007(H)

PETITIONER:

A.MURUGESAN, S/O.G.ANNAMALAI PILLAI,
44/153, MELAMURI, BIG BAZAR, PALAKKAD,
PIN-678 014.

BY ADV. SRI.P.V.GEORGE(ONAKKOOR)
SRI.MOHAN PULIKKAL
SRI.REJI GEORGE

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
PALAKKAD.

2. THE REVENUE DIVISIONAL OFFICER,
PALAKKAD.

3. THE DHANALAKSHMI BANK LIMITED,
REPRESENTED BY ITS CHIEF MANAGER,
ZONAL OFFICE, THRISSUR.

BY ADV. SRI.C.K.KARUNAKARAN,SC,DHANALAKSHMI BANK
GOVERNMENT PLEADER SRI. BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 34513/2007

Dated this the 26th day of November, 2007

JUDGMENT

The proceedings initiated against the Petitioner under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is under challenge. Ext.P1 shows that the liability was more than 12.5 Lakhs and it is submitted by the petitioner that subsequently he has paid Three Lakhs. Despite this remittance since the petitioner continued to be a defaulter, Ext.P6 order has been passed by the first respondent under Section 14 of the aforesaid Act. It is at that stage this writ petition has been filed challenging the proceedings.

When the case was taken up for orders, the only relief that the counsel for the petitioner pressed before me is to grant an instalment facility so that the petitioner could pay off the liability and avoid distress sale of mortgaged property.

I heard the learned counsel for the Bank also, who submits that sufficient opportunity was given to the petitioner in the past and therefore there is no bonafides in the submission now made.

Irrespective of the controversy that is now raised by either side, I think yet another opportunity can be given to the petitioner so that he could discharge the liability due to the Bank and avoid distress sale of the mortgaged properties.

Accordingly I dispose of this writ petition directing that within one month from today, Petitioner shall deposit with the Bank a sum of Rs.3,00,000/-. Subject to this, further proceedings pursuant to Exts.P1 to P6 shall be deferred by the Bank. Thereafter the balance due to the Bank shall be paid in five equal monthly instalments, first of which would be payable on 15th of January, 2008 and subsequent instalments shall be payable on 15th of every succeeding month. Subject to payment as above,

proceedings initiated shall not be continued against the Petitioner and if the petitioner commits default in paying the amount as ordered above, Bank will be free to proceed against the Petitioner without further notice.

ANTONY DOMINIC
Judge

mrcs